

D/F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

X

SAMUEL MC KENZIE,

Plaintiff,

-against-

ORDER
09 CV 606(SJF)(WDW)

ESTEE LAUDER COMPANIES, INC.,

Defendant.

X

FEUERSTEIN, J.

On April 14, 2008, *pro se* plaintiff Samuel McKenzie (“Plaintiff”) initiated this action against defendant Estee Lauder Companies, Inc. (“Defendant”), alleging unlawful termination and retaliation in violation of the Americans with Disabilities Act, 42 U.S.C. § 12101, *et. seq.*, the Age Discrimination in Employment Act, 29 U.S.C. § 621, *et. seq.*, and Title VII of the Civil Rights Act, 42 U.S.C. § 2000e *et. seq.* On July 26, 2010, Defendant moved to for summary judgment which war referred on July 28, 2010. On September 22, 2010, Magistrate Judge William D. Wall issued a Report and Recommendation (“the Report”) which recommended that Defendant’s summary judgment motion be granted and all claims dismissed. No objections have been filed to the Report. For the reasons stated herein, the Report is accepted in its entirety.

I. Discussion

Rule 72 of the Federal Rules of Civil Procedure permits magistrate judges to conduct

proceedings on dispositive pretrial matters without the consent of the parties. Fed. R. Civ. P. 72(b). Any portion of a report and recommendation on dispositive matters, to which a timely objection has been made, is reviewed de novo. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The court, however, is not required to review the factual findings or legal conclusions of the magistrate judge as to which no proper objections are interposed. See Thomas v. Arn, 474 U.S. 140, 150, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985). To accept the report and recommendation of a magistrate judge to which no timely objection has been made, the district judge need only be satisfied that there is no clear error on the face of the record. See Fed. R. Civ. P. 72(b); Baptichon v. Nevada State Bank, 304 F. Supp. 2d 451, 453 (E.D.N.Y. 2004), affd, 125 F. App'x. 374 (2d Cir. 2005); Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985). Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

The Report specifically required objections to be filed within fourteen days, and indicated that failure to object would waive appeal of the district court's order. The Report at 17. Defendant served a copy of the report on September 22, 2010. See DE 39. No objections have been filed to the Report to date. Upon review, the Court is satisfied that the Report is not facially erroneous and that there is no clear error on the face of the record. Accordingly, the Court accepts and adopts Magistrate Judge Wall's Report as an Order of the Court.

II. Conclusion

For the foregoing reasons, the Report is accepted in its entirety, Defendant's motion for summary judgment is granted, and the case is dismissed with prejudice. The Clerk of the Court is directed to close this case.

SO ORDERED.



SANDRA W. BERSTEIN
United States District Judge

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Dated: October 29, 2010
Central Islip, New York